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EXAMINER

KYLE, CHARLES R

ART UNIT PAPER NUMBER

3624

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,358

Applicant(s)

FITZPATRICK ET AL.

Examiner

Charles R Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,7,10-18,21,23,24 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,10-18,21,23-24 and 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 10-18, 21 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,408,282 *Buist* in view of US 6,021,397 *Jones et al.*

With respect to Claim 1, see the discussion of Claim 31, which is a superset of Claim 1. *Buist* further discloses a computer readable medium having software stored thereon for execution on a computing device at Col. 6-8 and Figs. 1 and 2.

Concerning Claim 2, see the discussion of Claim 31. Note the equivalent functions of recommendations for maturing holdings and suggestion of alternative allocations for a current allocation.

Concerning Claims 3 and 18, see the discussion of Claim 31. *Buist* is shown there to disclose real time market data function and application information. See also Fig. 20 and Figs. 16A-16C.

With respect to Claims 10-11, *Buist* does not specifically disclose a favorites menu. Official Notice is taken that such menus were old and well known at the time of the invention. For example, it was common for users of web browsers to utilize the "Favorites" feature of a toolbar to structure frequently visited websites. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Buist* to include a favorites item because this

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would increase accessibility of frequently needed information. Because the applications and market data functions of **Claim 11** would be frequently used by a user or broker, it would have been obvious to include these as favorites items.

Concerning Claim 12, see the discussion of Claim 10 and *Buist* further discloses configuration at Col. 3, lines 30-55. A split screen is read as plural open windows, well known at the time of the invention.

With respect to Claim 13, *Buist* discloses investor monitoring and transmission of a message to an advisor in real-time regarding an investor mediated transaction at Col. 9, line 42 to Col. 10, line 25.

Concerning Claim 14, see the discussion of Claim 31.

With respect to Claims 15 and 21, *Buist* discloses research and online portfolio selections at Col. 11, line 54+. User inquiry is read as a simple "Help" selection, to assist users with questions, old and well known at the time of the invention.

With respect to Claim 16, see the discussion of Claim 31, which is a superset of Claim 16.

With respect to Claim 17, see the discussion of Claim 16 and 2.

With respect to Claims 27-30, see the discussion of Claims 16 and 31. Claim 31 includes the limitations recited by these individual Claims.

With respect to Claim 31, *Buist* discloses the invention substantially as claimed, including in a network based financial service system (Title), elements of:

a client computer having Internet access (Col. 6, lines 26-48);

a browser interface operable on the client computer, the browser interface having.

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a toolbar (Fig. 10; Col. 14, lines 13-24);

an application menu (Fig. 5A, ele. 510; Col. 11, line 15 to Col. 12, line 7) and a market data function menu (Col. 15, line 27 to Col. 16, line 11); and

at least one view window for presenting information resulting from selecting at least one selection from at least one of the application menu and the market data function menu (Fig. 60); and

a server having access to a plurality of applications and a plurality of market data functions, the applications and functions being accessible from the browser interface via Internet access (Col. 6, line 25 to Col. 8, line 47, particularly Col. 7, lines 50-55), the browser interface for use by at least one financial advisor to provide financial services to a plurality of investors (Col. 7, lines 13-29) having access to an online investor transaction system that provides each investor with at least one investor account for investors to conduct therewith investor-mediated transactions comprising orders to trade securities and for tracking investor mediated transactions (Col. 6, line 18 to Col. 8, line 47), and functions:

providing financial advisors with access to information regarding investor accounts and investor mediated transactions made available with the online transaction system (Col. 10, lines 25-62);

providing financial advisors with a a mechanism for entering orders to trade securities for at least one investor (Col. 1, line 56 to Col. 2, line 6), and market data function of:

a market data function providing financial advisors with access to real time market data (Fig. 14; Col. 15, line 27 to Col. 16, line 11);

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a research function for researching investment information that provides financial advisors with an interface for researching securities by at least one of industry, price, P/E ratio, growth rate and rating (Col. 11, line 15 to Col. 12, line 67, particularly Col. 11, lines 54-60), and

a historical chart for historical information for at least one security based on at least one specified range of dates, the historical information accessible comprising studies, charts, and historical quotes (Figs. 14, 15, 58 and 62 and related text).

Buist does not specifically disclose providing a window displaying at least one investor's maturing holdings providing recommendations for at least one of swapping maturing holdings and upgrading maturing holdings, displaying an investor's then current asset allocation and suggesting an alternative allocation based on an investor's risk tolerance or displaying an investor account's gains and analyzing progress toward an investment goal using at least one growth rate assumption. *Jones* discloses these as analyzing an investor's then current asset allocation and suggesting an alternative allocation based on an investor's risk tolerance at Col. 6, lines 3-34 and analyzing an investor account's gains and analyzing progress toward an investment goal using at least one growth rate assumption at Col. 6, lines 40-66. As to the phrasing regarding displaying at least one investor's maturing holdings and providing recommendations for at least one of swapping maturing holdings and upgrading maturing holdings this is understood to be functionally equivalent to the second new limitation of analyzing an investor's then current asset allocation and suggesting an alternative allocation based on an investor's risk tolerance and disclosed at the above cited passage. Current asset allocation is read as the same as investor's maturing holdings; suggesting an alternative allocation is the same as providing

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recommendations for at least one of swapping and upgrading maturing holdings. As to limitations that various selection functions are provided as menu selections, this was old and well known at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Buist* with the financial planning functions disclosed by *Jones* because this would help the user/investor of *Buist* to model investment activities to obtain a financial goal and to have confidence that the goal could be reached with particular portfolio selections. See *Jones* at Col. 3, line 30 to Col. 4, line 58 and Background of the Invention.

Claims 6, 7, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,408,282 *Buist* in view of US 6,021,397 *Jones et al* and further in view of US 5,802,499 *Sampson et al*.

With respect to Claims 6 and 7, see the discussion of Claim 1 and 23-24.

With respect to Claims 23 and 24, *Buist* discloses the invention substantially as claimed. See the discussion of Claim 31, a superset of the Claim 16 from which 23 depends. *Buist* further discloses authentication based on entitlement and a login window at Fig. 53 and Col. 35, lines 31-57. *Buist* does not specifically disclose a user entitlement associated with a plurality of identifications. *Sampson* discloses this limitation at Col. 80, line 19 to Col. 81, line 24, particularly Col. 80, lines 30-66. See also Col. 2, lines 12-24 for applicability to advisor/broker applications. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Buist* to include the entitlements feature of *Sampson* because this would provide control of user access to advisors/brokers having responsibility for user activities.

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As to Claim 24, population of interfaces was old and well known at the time of the invention and would be obvious to save users time on data entry activity.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,408,282 *Buist* in view of US 6,021,397 *Jones et al* and further in view of US 5,970,149 *Johnson*.

As to Claim 26, *Buist* discloses the invention substantially as claimed. See the discussion of Claim 31, a superset of the Claim 16 from which 23 depends. *Buist* does not specifically disclose tracking of problems through the use of problem tickets. *Johnson* discloses this limitation at Col. 7, lines 24-35. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Buist* to include such tickets to give advisor/brokers a mechanism for exception handling.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

crk
February 24, 2005

Examiner Charles Kyle

A handwritten signature in black ink, appearing to read "Charles Kyle", with a stylized flourish at the end.